Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

Requestor Name and Address: THE CLINIC FOR SPECIAL SURGERY 900 12TH AVENUE FORT WORTH TX 76104	MFDR Tracking #: M4-07-4440-01
	DWC Claim #:
	Injured Employee:
Respondent Name and Box #: ACE AMERICAN INSURANCE CO Box #: 15	Date of Injury:
	Employer Name:
	Insurance Carrier #:

PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

Requestor's Position Summary: "The attached bill was not paid appropriately based upon TWCC rule 134.402 and the AAOS Global Service Data for Orthopedic Surgery."

Principal Documentation:

1. DWC 60 Package
2. Medical Bill(s)
3. EOB(s)
4. Medical Records
5. Total Amount Sought - $729.89

PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

Respondent's Position Summary: "The carrier evaluated this bill 11/9/06 and 1/2/07 and recommended an allowance of 1,522.89. The carrier stands on its position that the bill has been processed per state fee schedule guidelines."

Principal Documentation:

1. DWC 60 Package

PART IV: SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Calculations	Amount in Dispute	Amount Due
10-10-2006	Ambulatory Surgical Care (ASC) Services for CPT code 29835-SG	$498.74 X 213.3% = $1063.81, less the amount of $639.71 previously paid by the carrier leaves an amount due of $424.10.	$424.10	$424.10
	ASC Services for CPT code 24354-59-SG	$ 498.74 X 213.3% = $1063.81 X 50% = $531.91, less the amount of $324.68 previously paid by the carrier leaves an amount due of $207.23	$207.23	$207.23
	ASC Services for CPT code 29999-59-SG	$616.09 X 213.3% = $1,314.12 X 50% = $657.06, less the amount of $558.50 previously paid by the carrier leaves an amount due of $98.56	$98.56	$98.56
			Total Due:	$729.89

PART V: FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Tex. Lab. Code Ann. §413.031 of the Texas Workers' Compensation Act, and pursuant to all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. This request for medical fee dispute resolution was received by the Division on March 19, 2007.
2. Division rule at 28 TAC §134.402, effective September 1, 2004, 27 TexReg 4223, sets out the reimbursement guidelines for ASC services.
3. Division rule at 28 TAC §134.1, effective May 16, 2002, 27 TexReg 4047, requires that services not identified in a fee guideline shall be reimbursed at fair and reasonable rates.
4. Texas Labor Code §413.011 requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control.
5. Division rule at 28 TAC §133.307, effective December 31, 2006, 31 TexReg 10314, applicable to disputes filed on or after January 15, 2007, sets out the procedure for medical fee dispute resolution.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of benefits dated 11/9/2006

   - 185-The rendering provider is not eligible to perform the service billed.
   - (993-002)-Service denied. Provider not on the approved doctor list.

   Explanation of benefits dated 1/2/2007

   - W1-Workers Compensation State Fee Schedule Adjustment.
   - (663)-Reimbursement has been calculated according to state fee schedule guidelines.
   - W3-Additional payment made on appeal/reconsideration.
   - (920-010)-Upon receipt of a requested report, the recommended allowance has been adjusted.
   - 45-Charges exceed your contracted/legislated fee arrangement.
   - (850-300)-Allowance according to state fee schedule guidelines. $558.50.
   - 59-Charges are adjusted based on multiple surgery rules or concurrent anesthesia rules.
   - (607)-Reimbursement for this procedure has been calculated according to the multiple procedure rule.

Issues

1. What is the applicable rule for reimbursement?
2. Did the requestor support the position that additional reimbursement is due for ASC services for CPT code 29835-SG, 24354-59-SG and 29999-59-SG? Is the requestor entitled to additional reimbursement?

Findings

1. Division rule at 28 TAC §134.402(b), states "For coding, billing, reporting, and reimbursement of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section."

   Division rule at 28 TAC §134.402(c), states "To determine the maximum allowable reimbursement (MAR) for a particular service, system participants shall apply the Medicare payment policies for these services and the Medicare ASC reimbursement amount multiplied by 213.3%."

   Division rule at 28 TAC §134.402(d), states "In all cases, reimbursement shall be the lesser of the: 1) MAR amount regardless of billed amount; or 2) facility's and payer's workers' compensation negotiated and/or contracted amount that applies to the billed service(s)."

   Division rule at 28 TAC §134.402(e)(2)(G), states "Exceptions and modification to the Medicare payment policies are as follows: 2) In addition to the ASC List of Medicare Approved Procedures, the following procedures will be reimbursed when provided in an ASC at the reimbursement rate provided by this section as if they were on that list (using the same Medicare group assignment values): G) 29999-Group 4." Therefore, reimbursement for CPT code 29999 is applicable to reimbursement established in Division rule at 28 TAC §134.402(e)(2)(G).
2. CPT code 29835-SG is described as "Arthroscopy, elbow, surgical; synovectomy, partial." The maximum reimbursement amount, under Rule §134.402, is determined by locality. Per review of Box 32 on CMS-1500, zip code 76104 is located in Tarrant County (Reasonable Charge Locality 28). Per CPT code 29835-SG is in the ASC Payment Group of 3. The Medicare rate for Group 3 in locality 28 is $498.74. The MAR for this service is $498.74 X 213.3% = $1,063.81, less the amount previously paid by the carrier of $639.71, leaves an amount due of $424.10. This amount is recommended.

CPT code 24354-59-SG is described as "Fasciotomy, lateral or medial (eg, tennis elbow or epicondyliitis); with stripping." The maximum reimbursement amount, under Rule §134.402, is determined by locality. Per review of Box 32 on CMS-1500, zip code 76104 is located in Tarrant County (Reasonable Charge Locality 28). Per CPT code 24354-SG is in the ASC Payment Group of 3. The Medicare rate for Group 3 in locality 28 is $498.74. The MAR for this service is $498.74 X 213.3% = $1,063.81. Since this is a secondary procedure, the multiple procedure rule will be applied to the MAR. $1063.81 X 50% = $531.91, less the amount previously paid by the carrier of $324.68, leaves an amount due of $207.23. This amount is recommended.

CPT code 29999-59-SG is described as "Unlisted procedure, arthroscopy." The requestor noted on the operative report that the claimant underwent "Left annular ligament partial resection." The maximum reimbursement amount, under Rule §134.402, is determined by locality. Per review of Box 32 on CMS-1500, zip code 76104 is located in Tarrant County (Reasonable Charge Locality 28). Division rule at 28 TAC §134.402(e)(2)(G), states that CPT code 29999 is assigned ASC Payment Group of 4. The Medicare rate for Group 4 in locality 28 is $616.09. The MAR for this service is $616.09 X 213.3% = $1,314.12. Since this is a secondary procedure the multiple procedures rule will be applied to the MAR. $1314.12 X 50% = $657.06, less the amount previously paid by the carrier of $558.50, leaves an amount due of $98.56. This amount is recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation supports the reimbursement amount sought by the requestor. For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $729.89.

PART VI: ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031 and §413.019 (if applicable), the Division has determined that the requestor is entitled to $729.89 additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of $729.89 plus applicable accrued interest per Division rule at 28 Tex. Admin. Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature	Medical Fee Dispute Resolution Officer	**July 6, 2010** Date

PART VII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Tex. Admin. Code §148.3(c).

Under Texas Labor Code § 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 rules if the total amount sought does not exceed $2,000. If the total amount sought exceeds $2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.